

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CONNELLY CONSTRUCTION CORPORATION,	:	
<i>Plaintiff,</i>	:	
	:	CIVIL ACTION
	:	
v.	:	
	:	
TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA et al.,	:	
<i>Defendants.</i>	:	No. 16-555

ORDER

AND NOW, this 23rd day of July, 2018, upon consideration of Plaintiff's Motion for Summary Judgment on Defendants' Counterclaims (Doc. No. 87), Defendants' Response in Opposition (Doc. No. 95), Plaintiff's Motion for Partial Summary Judgment as to Change Order #7 (Doc. No. 88), Defendants' Response in Opposition (Doc. Nos. 93 & 94), Defendants' Motion for Summary Judgment (Doc. No. 89), Plaintiff's Response in Opposition (Doc. No. 91), Defendants' Motion for Leave to Dismiss Counterclaim Without Prejudice (Doc. No. 90), Plaintiff's Response in Opposition (Doc. No. 92), and oral argument held on July 19, 2018, **it is ORDERED** as follows:

1. Plaintiff's Motion for Summary Judgment on Defendants' Counterclaims (Doc. No. 87)

is **GRANTED in part and deemed MOOT in part** as follows:

- a. As to the counterclaim for concrete slab discoloration, the Motion is **GRANTED** as unopposed. The counterclaim for concrete slab discoloration is **DISMISSED with prejudice**.
- b. As to the counterclaim for liquidated damages, the Motion is **deemed MOOT**. The counterclaim for liquidated damages is **DISMISSED without prejudice**.

2. Plaintiff's Motion for Partial Summary Judgment as to Change Order #7 (Doc. No. 88) is **deemed MOOT**. Plaintiff's claim for payment under Change Order #7 is **DISMISSED** as moot.
3. Defendants' Motion for Summary Judgment (Doc. No. 89) is **DENIED**. The parties are **ORDERED** to submit a joint proposed schedule for continued disposition of Plaintiff's retainage claim no later than August 31, 2018.
4. Defendants' Motion for Leave to Dismiss Counterclaim Without Prejudice (Doc. No. 90) is **GRANTED**. Defendants' counterclaim for liquidated damages is **DISMISSED without prejudice**. By August 31, 2018, the parties are **ORDERED** to submit any continued request for attorney's fees relating to the litigation of the counterclaim for liquidated damages. The Court will set a schedule for any evidentiary hearing on any request for attorney's fees at a later date.

BY THE COURT:

S/Gene E.K. Pratter
GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE